IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5304 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAKSHA M PANDYA

Versus

GUJARAT UNIVERSITY

Appearance:

1. Special Civil Application No. 5304 of 1997

MR HJ NANAVATI for Petitioner No. 1-4

MR DEVANG NANAVATI for Respondent No. 1-2

MR LB DABHI A.G.P. for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 07/12/2004

ORAL JUDGEMENT

1. The petitioners have by way of this petition has challenged the Notification bearing No.574 of 1997 dated 27th June, 1997 whereby, the petitioners were declared as failed.

2. Having gone through the record of this petition, it appears that while admitting this matter, this Court on 25th September, 1997 had passed the following order:-

"RULE. Heard both the sides on the question of interim relief. Admittedly, no hearing was given to the petitioners before making the impugned order declaring them fail in respect of Second year B.Sc. basic nursing examination, which was held in April, 2995. As per the findings of the Committee which had gone into the allegations made against a competing candidate in his application dated 13th July, 1995, it has clearly been found that the discrepancy in marks was because of the negligence on the part of the Examiner and the Principal. In that report, the Dean of the B.J. Medical College and the Head of the Department of Preventive and Social Medicine had, as far back as on 15.11.95, in terms held that the connection of the students was not established nor were the allegations made by the complainant Jitendra Trivedi regarding favouritism, bribe or undue familiarity at all established. At more than one place in the report there is a finding that the discrepancy in the marks as due to negligence of the Examiner and the Principal. It appears that there are three assessments made and in first assessment, some of these students got more marks, which were subsequently, reduced. The final marks given to the students as shown in the table contained in the report (page 37) are 107, 110, 109 and 109 as against earlier marks of 107, 120, 111 and 119. Thus, there is reduction of marks in the third assessment and it can never be said that the students had used any influence to get their marks reduced. Moreover, the difference is also not such as would create any doubt or warrant any adverse inference against the students. The students appear to have unjustly suffered by the delay of declaration of their result for a period of nearly two years. It is, therefore, directed by way of interim relief that the result of these petitioners should be declared forthwith by the University.

3. In that view of the matter, rule is made absolute in terms of ad-interim relief. Liberty to apply in case of difficulty.

[K.S. JHAVERI, J.]

/phalguni/